IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 21ST AUGUST 2007 / 30TH SRAVANA 1929

Crl.MC.No. 6949 of 2001()

PETITIONER: ACCUSED

DR.SREEKANTH,
S/O. DAVU RAGHAVULLU,
AGED 44 YEARS, SEVANAM HOSPITAL,
EDAKKARA POST OF MALAPPURAM DISTRICT.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS: COMPLAINANT
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1. **K.HARIDAS, NILAMBUR BLOCK YOUTH CONGRESS,**
   SECRETARY, KALATHINGAL HOUSE,
   CHERUVATHUKUNDU, NILAMBUR P.O.

2. **THE SUB INSPECTOR OF POLICE,**
   EDAKKARA POLICE STATION,
   REP.BY THE PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.AMJAD ALI.

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 21/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRL.MC. NO.6949/2001

ORDER ON CRL.MP. 5327/2001 IN CRL.MC. 6949/2001

DISMISSED

21.08.2007 **SD/- K.R.UDAYABHANU, JUDGE**

/TRUE COPY/

P.S. TO JUDGE

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K.R. UDAYABHANU, J.

CRL.M.C.NO. 6949 OF2001

DATED THIS THE 21st August 2007

ORDER

The petitioner, who is the accused in Crime No.348/2001 of Edakkara police station has sought for setting aside the crime registered on the ground that the procedure adopted by the Magistrate is illegal. It is submitted that the Judicial First Class Magistrate on receipt of Annexure-A2 complaint proceeded to enquire into the matter under Section 202 Cr.P.C. During the course of enquiry, the first respondent and witnesses were examined and the enquiry was almost completed. It is then the Magistrate has forwarded the complaint to the S.H.O. Edakkara to register a case and investigate the same. In pursuance of the same, Annexure-A1 F.I.R. has been registered. Evidently, the above procedure adopted is not permitted by the provisions of the Cr.P.C. (See in **Thula Ram and Others v. Kishore Singh, (1977)4 S.C.C.459**). In the circumstances, the order of the court below directing the S.H.O. to register a case and

investigate and the consequent action of the S.H.O. registering Crime No.348/2001 with respect to the offences under Sections 420, 419, 463, 464,466 and 471 of the Indian Penal Code is herewith set aside. The court below is directed to proceed with Section 202 Cr.P.C. enquiry and dispose of the matter. The matter will be posted before the court below on 30-10-2007.

K.R.UDAYABHANU, JUDGE

ks.

K.R.UDAYABHANU, J

CRL.M.C.NO.6949 OF 2001
ORDER

21-8-2007